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Ethical Considerations in Workplace Violence Prevention Monitoring

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Abstract

Workplace violence prevention monitoring is defined as any method companies use to investigate, estimate, and record potential violence risks and actual violence in the workplace. Such efforts include providing background investigations of employees, monitoring and recording employees' work behaviors, performing risk assessments, training employees to monitor violent or threatening acts, and developing workplace violence monitoring policies. Each effort contains potential ethical problems. This paper outlines the various ethical considerations of violence prevention monitoring and makes recommendations based on them. The need for safety, security,

productivity, employee relations, reputation, and discrimination has to be balanced with privacy, accuracy, consistency, immediacy, impartiality, informed consent, and civil rights issues.

Ethical Considerations in Workplace Violence Prevention Monitoring

Workplace violence has been defined as incidents in which workers are abused, threatened, or assaulted involving explicit or implicit challenges to their safety, well-being or health (Russell, 1999). Examples of violence include homicides, rapes, aggravated assaults, and verbal threats (Kirk and Franklin, 2003).

Workplace violence has become a major safety and health hazard. Every year, almost a thousand workers are murdered and two million are physically attacked in the United States (Mattman, 2004). The prime cause of occupational death for women is murder (Santana and Fisher, 2002). About fifty-six percent of women and forty-four percent of men have reported nonfatal assaults (National Institute for Occupational Safety and Health, 2004a). The estimated annual medical costs of violence are about \$13.5 billion (Grossman, 2002).

Management is in a strong position to monitor potential workplace violence because of financial resources and its interest to keep a safe and secure workplace. Workplace violence prevention monitoring is defined as any method companies use to investigate, estimate, and record potential violence risks and actual violence in the workplace. To do violence prevention monitoring, human resource and line managers can:

1. Provide background investigations of employees. These activities include:
 - a. Reference checks
 - b. Criminal background checks
 - c. Previous work history
 - d. Educational records
 - e. Motor vehicle records
 - f. Credit checks
 - g. Military discharge information
2. Monitor and record employees' work behaviors. These activities may include monitoring
 - a. E-mail
 - b. Internet
 - c. Phone and cell phones
 - d. Employee locations
3. Perform risk assessments associated with employee profiling.
4. Train employees to monitor employee work behaviors and refer problems to proper authorities.
5. Develop workplace violence monitoring policies

This paper investigates ethical considerations associated with an organization's violence prevention monitoring efforts. Many organizations are taking firm stands against workplace violence because managers feel responsible for the safety and security of their employees. Sometimes violence prevention monitoring efforts might be too severe and threaten the privacy rights of employees. Various ethical dimensions associated violence prevention monitoring need to be addressed in order for companies to make appropriate judgments. The paper concludes with recommendations on how to monitor employees.

What Monitoring Is Taking Place

Provide Background Investigations of Employees. In a national survey of workplace violence for Society for Human Resource Management members, Esen (2004) found that companies perform a wide variety of activities associated with employee background investigations for hiring. About eighty percent complete reference and criminal background checks, seventy-nine percent analyze previous work history, fifty-five percent check educational records for degree verification, forty-four percent check motor vehicle records, thirty-five percent do credit checks, and twenty-one percent collect military discharge information. In a survey of human resource managers in Western Texas, Kaupins, Coco, and Cope (2005) found that sixty-eight percent of companies complete reference checks directly associated with violence in the workplace.

Monitor and Record Employees' Work Behaviors. According to Esen (2004) about twelve percent of companies monitor employee e-mails and Internet behavior. Other violence monitoring efforts are associated with constraints limiting access to the company. Also according to Esen (2004), about forty percent of companies add a check-in or sign-in desk to screen visitors, thirty-two percent have provided increased lighting on the grounds or parking lot, twenty-nine percent have issued identification cards to employees and visitors to confirm they have entered or left the building, twenty-three percent have video surveillance inside the building, twenty percent have video surveillance outside the building, fourteen percent place security guards at strategic spots, and four percent have location monitoring name tags or other devices to check the locations of employees at any time.

Perform Risk Assessments. Risk assessments are a part of vulnerability analysis in which companies analyze the degree of probability that there will be a loss associated with violence. In a survey released by the Risk and Insurance Management Society and the American Society of Safety Engineers (Katz, 2000), seventy percent of about three hundred risk managers and safety professionals said that their organizations have not completed a formal risk assessment of potential violence in the workplace.

Risk assessments can include employee profiling. Such profiling historically has viewed the most high risk employees as white males who are thirty-five to forty-five years of age, have a migratory job history, are loners with little or no family or social support, are chronically disgruntled, rarely accept responsibility for things gone wrong, take criticism poorly, identify with violence, have a keen interest in guns, and are more than a casual user of drugs (Coastal Training Technologies Corporation, 1998).

Train Employees to Monitor Employee Work Behaviors. According to Kaupins, Coco, and Cope's (2005) survey of West Texas human resource managers, training for violence prevention occurred in sixty-seven percent of the companies surveyed. According to Katz (2000), about twenty-four percent said their organizations offered worker training in identifying warning signs of violent behavior.

The Occupational Safety and Health Administration (1999) reported that most states have programs for worker protection for their public sector employees. Many of these programs provide crisis management, risk assessment, and violence management training programs. Though many state programs are listed, a statistical summary is not provided.

Develop Workplace Violence Monitoring Policies. About sixty-two percent said that their organizations have a written violence workplace policy. This result is consistent with some empirical research that shows that many methods are used in the effort (Katz, 2000). According to

Kaupins, Coco, and Cope (2005), the employee handbook description of discipline, violence, conflict resolution, and weapons policies was the most common prevention technique (ninety-one percent of organizations).

Ethical Considerations Encouraging Workplace Violence Prevention Strategies

The empirical research has shown that many companies are closely monitoring their employees for potential violence risks. Companies have compelling ethical reasons to make sure that the chance of violence is reduced. Below is a list of some of the major reasons.

Safety and Security. Intrusions into an employee's privacy for the sake of protecting third parties are justified by four criteria according to Persson and Hansson (2003):

1. The third party's interests (e.g., safety and security) are protected for which the employer is morally responsible.
2. The means chosen are efficient to obtain the required information.
3. The least intrusive means to obtain information are chosen.
4. The intrusion on the employee is not so severe as to outweigh the third party interests.

Persons not covered under the employer's contract such as customers, shareholders, suppliers, creditors, workplace neighbors, relatives of workers, and others may be impacted by the actions of employees. Employers could be liable for the actions of employees on others (Persson and Hansson, 2003). For example, an employee could have a history of abusive activities against a customer. A restraining order could require that the employee not approach that customer again, with location monitoring systems verifying compliance.

Productivity. Businesses have a right to improve employee performance. According to Esen (2004), about 15 percent of human resource managers saw a decrease in productivity due to violence. About 6 percent saw an increase in absenteeism and about 4 percent saw an increase in turnover. An aspect of employee performance is being able to handle potential violent behavior that can reduce productivity or shut down a business if a major violent incident takes place.

Businesses also have a right to monitor employee efficiency. Remote management technologies are able to record every keystroke an employee makes on a computer. The keystrokes can be monitored to check game-playing or viewing of illicit Websites. Location monitoring technologies are able to record the locations of employees inside or outside of buildings. Employers can see how much time was spent in a lunchroom or at a worksite. Vendors of location monitoring systems suggest reduced overtime, down time, time spent in unauthorized locations, and employee fraud could occur (James, 2004).

Employee Relations. Employers have the right to monitor violence to improve employee relations. According to Esen (2004), about 19 percent of companies saw decreased morale, 22 percent decreased sense of safety and security, 24 percent increased stress levels, and 16 percent a greater concern for work/life balance as a result of violence in the workplace.

Reputation. According to the e-policy institute, employers wish to maintain their professional reputation (Porter and Griffaton, 2003). A violent act can cement the public's perception of an organization. For example, even though Kent State University has many fine programs, it has some notoriety for the Vietnam War protests and violence that occurred in 1970.

Discrimination. Reducing violence in the workplace can also potentially reduce discrimination in the workplace as protected employees often are the targets of workplace violence. Hate crimes against women, blacks, Hispanics, homosexuals, and other groups can not only damage the reputation of the company, but can lead to major lawsuits. Legal protections

from the Civil Rights Act of 1964, Pregnancy Discrimination Act, Age Discrimination in Employment Act, Immigration Reform and Control Act, and various state, city, and county laws often overlap with ethical considerations of fairness and equal treatment of individuals.

Ethical Considerations Limiting Workplace Violence Prevention Strategies

Privacy. Privacy rights exist under the Fourth Amendment in the US, the Electronic Communications Privacy Act of 1986 (ECPA), and under various laws worldwide, particularly when a person has a subjective expectation of privacy and society accepts that as reasonable. Employee privacy rights and reasonable employer rights may need to be balanced on a case by case basis (Loch, Conger, and Oz, 1998; Moore, 2000; Miller and Weckert, 2000).

Accuracy. Employee monitoring and location-aware devices will never provide perfect information about employee location. For example, Global Positioning System (GPS) based systems are usually limited to outdoor use, have inherent accuracy limitations, may suffer from signal loss interrupting operation, may be subject to incorrect configuration by operators, and may of course simply malfunction. Inaccuracies of even a few feet could make the difference between an employee being accused of wrongdoing or exonerated.

Monitoring of employee location is dependent upon a location-aware device being associated with that employee. This may be intentionally subverted by a dishonest employee. For example, to hide a trip to an unauthorized location, an employee could secretly give the location-aware device to another employee who would complete an authorized route. Even unintentional misplacement of location-aware devices could cause concern. Devices not carefully safeguarded could be stolen and used for fraudulent purposes.

Even if monitoring devices are properly associated with and establishes an employee to be at a certain location at a certain time, care must be taken to avoid assumptions of improper behavior based on circumstantial evidence alone. An employee may have traveled to a competitor because he or she was merely talking to a friend. An employee may have stopped his or her car near a strip bar because there was a malfunction in the car and not because he or she was visiting the bar. Employers might be held liable for firing employees based on false rumors employers illicitly received.

Even if an e-mail has been sent from a computer or an unacceptable Internet site has been viewed does not mean that the employee sent the e-mail or viewed the particular Internet site. Someone else could potentially have been on that person's computer.

Hot Stove Rule. In any employee monitoring case, the hot stove rule is a consideration often used by grievance arbitrators to solve discipline cases. If a company obeys the hot stove rule, the monitoring and possible discipline resulting from incorrect behavior discovered during monitoring should be with a warning, immediate, consistent, and impartial (Byars and Rue, 2004). The "with a warning" principle implies that employees should be notified that they are being monitored and violent or threatening behavior would be disciplined. Secret monitoring of employees violate Organization for Economic Cooperation and Development (OECD) guidelines and place a level of employee distrust on management. According to Kaupins, Coco, and Cope (2005), secret monitoring is considered one of the most unethical acts companies can do to employees.

Another major concern of computer monitoring and discipline in general is impartiality. Consistency presumes that companies apply the same corporate discipline policy to employees who engage in prohibited activities such as threatening violence on another employee (Nolan, 2003). Impartiality presumes that employees, regardless of rank, gender, race, or other employee

category, should be subject to the same corporate discipline policies. Immediacy presumes that upon careful consideration of due process, appropriate discipline will be meted out quickly.

Right to Examine Records. This right is part of the guidelines from the Organization for Economic Cooperation and Development (OECD) and included in the fifty-seven international laws passed involving freedom of information (Banisar, 2004). Data concerning violence and threats of violence in the workplace might have to be revealed to employees to verify computer activities or personal locations. The evidence can be used to defend or implicate the employee for any violent acts.

Discrimination. Civil rights laws in the European Union (EU), North America, and other regions cover discriminatory issues associated with violence. Violence prevention monitoring can potentially violate the civil rights of individuals. For example, if an employer tracks employee e-mails for potential violence, the employer could find out that the employee is pregnant and can potentially discriminate against that employee.

Employee profiling often covers race, gender, age, and other protected categories. There is potential for some of the information collected concerning employees to be used against them in a discriminatory fashion for anything associated with employee status. Employee status concerns a wide variety of issues such as hiring, firing, compensation, selection to training programs, selection for benefits options, etc.

If there is potential discrimination because of profiling, the burden of proof would be on the employer in the EU, Canada, and Australia. In the United States, most of the burden of proof lies with the employee (Society for Human Resource Management Research Department, 2004). The employee would have to prove that he or she is a member of a discriminated group and was unfairly treated based on gender, race, disability, or other protected categories (Mathis and Jackson, 2006).

Recommendations for Violence Monitoring

Anecdotal research from practitioner-oriented journals and government reports provide a summary of how to monitor employees in order to reduce the chances of workplace violence. Such research has provided many suggestions. The following list provides a few of them.

Develop Accurate and Appropriate Data Collection. The 1980 Organization for Economic Cooperation and Development (OECD) Guidelines, inspiration for European Union, Canadian, Australian and other international laws, place specific exceptions to personal data collection. The exceptions potentially could be applied to e-mail, Internet, and location monitoring of employees.

1. **Collection Limitation Principle:** Data should be collected by lawful and fair means with the knowledge of the individual. Employees should be warned that their e-mails, Internet activity, and locations will be monitored.

2. **Data Quality Principle:** If evidence of violent behavior is collected, relevant data should be accurate, complete, and up-to-date.

3. **Purpose Specification Principle:** The purposes of data collection should be specified. If profiling is done, it should only be used for violence prevention efforts and not for the purposes of discriminating against protected groups such as women, blacks, and individuals forty or older.

4. **Use Limitation Principle:** Data should be disseminated only based on an individual's consent and for legal purposes. Information about violent behaviors should be limited to proper law enforcement authorities.

5. **Security Safeguards Principle:** Data should be protected from loss, misuse, or modification. Information about violent behaviors or potentially violent actions should be safely stored.

6. **Openness Principle:** There should be general openness in the collection and use of the data.

7. **Individual Participation Principle:** Individuals should have a right to know how personal data is collected and by what means. In employee handbooks, information about employees should be recorded and stored in a secure place that employees know about.

8. **Accountability Principle:** Data collectors should be accountable for their data sets (Organization for Economic Cooperation and Development, 2004). Any misuse of violence prevention data should be

Develop Effective Employee Handbook Policies. While all companies strive to build a culture free of harassment and discrimination, they can advance this goal by having systems in place to address violence prevention monitoring. A thorough policy defines violence or threats of violence, specifies how to report it, suggests how employees will be monitored, explains how complaints will be investigated and presents the consequences (National Institute for Occupational Safety and Health, 2004b; Sheehan, 2000; Gill, Fischer, and Bowie, 2002).

Train Supervisors and Employees to Recognize Signs of a Troubled Employee. One way to reduce the potential for workplace violence is to intervene before an incident reaches a flash point. Supervisors can be given training on how to recognize signs and symptoms of a potential violent employee such as threatening behavior or pre-occupation with violence. Also, supervisors can be instructed on how to be sensitive to signs of possible abuse among employees, such as frequent absences or depression (National Institute for Occupational Safety, 1996; Patterson and Leadbetter, 2002).

Developing employees' skills in negotiating, communicating effectively, team building, and resolving disputes can reduce conflicts on the job (National Institute for Occupational Safety and Health, 2004b; Occupational Safety and Health Administration, 1996; Meadows, 2001).

Provide Employee Safety Education Programs. In addition to making workers aware of company safety policies and employee support services, employers can provide educational materials and seminars about ways to maximize safety at work (Dobbs, 2000; Coco, 1998; Koloszyk, 1998; Roberts, 1999).

Implement Physical Security Programs. Employers have a variety of methods for ensuring workers' safety, such as full-time or after-hours security guards, high tech monitoring systems, emergency warning systems, limited access key cards, strict visitor sign-in policies, new employee background screening, and safety and awareness and training. Companies that regularly evaluate their security programs can best determine if they are meeting company and employee needs. Also, employers need to make sure that employees are aware of and understand existing security policies and procedures (Stanton, 1998; Ruggless, 1999).

Set Up a Crisis Plan and Mentoring/Counseling Program. The plan can include details on how to report incidents or suspicious behaviors, how to alert key internal managers and how to implement external authorities should be alerted, how to maintain the safety of unaffected workers and security precautions to prevent future incidents. Companies can also arrange to provide individual mentoring/counseling program for affected employees soon after the incident occurs (Stieber, 1999; Kirk and Franklin, 2003).

Conduct Thorough Pre-employment Testing. Proper testing procedures during the hiring process will keep potentially dangerous individuals out of the workforce. These procedures should include a clear warning to all applicants that the company conducts thorough background investigations of all new employees and requires a signed waiver to allow the company access to criminal, drivers, employment, financial, military, and other appropriate records (Dobbs, 2000; Coco, 1998; Hodgson, 1994).

Monitor Employee's E-mail and Internet Activity. Organizations are concerned about Internet and e-mail mostly to protect their investments, assure a safe and hospitable working environment, and provide quality services to customers (Doherty, 2001; Attaway, 2001).

Determine Employee Locations. Employee location information can be used as evidence for positioning an employee at a certain place and time. It cannot confirm what the employee is doing at any particular time.

There are numerous location-aware technologies that include greatly differing characteristics such as accuracy (e.g., within a few meters for GPS; within a few millimeters for sensor networks), venue (e.g., outdoors versus indoors), location determination methods (e.g., determined internally by a device itself, or externally by the systems and/or networks it interacts with) and operational modes (e.g., actively and continuously tracking versus passively responding to point location requests only). Even if a device is not designed to be location-aware, it may be locatable. Wireless local area network (WLAN) technologies using fixed access points with a range of only 50 to 100 meters make all users of the WLAN locatable by virtue of their association with the access point (Kaupins and Minch, 2005).

Future Research

Future ethics studies on employee violence prevention monitoring should analyze case studies and court cases associated with such monitoring. Finding the line of what is intrusive or not is difficult and may have to be settled on a case by case basis. Existing laws concerning employee violence prevention monitoring are still in flux especially due to the development of e-mail and Internet monitoring and employee location monitoring technologies. While the Electronic Communications Privacy Act of 1986 (ECPA) provides limitations on the use of computers to monitor employees, court cases associated with the act are still limited in their scope.

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